RECENT IMPORTANT DECISIONS

CARRIERS OF PASSENGERS—DUTY TO STOP AT STATION TO PERMIT PASSENGER TO ALIGHT—CONTRIBUTORY NEGLIGENCE OF PASSENGER.—Plaintiff's intestate was riding in the front end of a crowded vestibule car in the coach next to the tender of the engine. When the train stopped at his station he tried to leave by the front end, but found the door from the vestibule closed. As he did not know how to open it, or was unwilling to be carried by his station, he stepped from his platform to the bumper of the tender and tried to follow it to the side and alight from it. Before he could do so the engine started with a lurch, he was thrown down and killed. The evidence strongly tended to prove that he would have escaped serious injury if the engineer had understood and heeded the cries and signals given by fellow passengers. *Held,* for the jury to say whether so leaving the train under unusual circumstances was contributory negligence on the part of the passenger. *Donnally* v. *Payne* (W. Va., 1921), 109 S. E. 760.

The court recognizes that for a passenger under ordinary circumstances to make a hazardous attempt to alight because the train does not stop at his station long enough to permit his leaving the train by the usual exits is in law contributory negligence, barring recovery. But peculiar circumstances may take the case out of the rule. The cases are very fully considered in *Filer* v. *N. Y. C. R. R. Co.,* 49 N. Y. 47, a leading case. Generally, courts regard alighting from a moving train as negligence *per se,* unless the carrier puts the passenger in the position of risking one danger in order to avoid another. *Pa. R. Co.* v. *Aspell,* 23 Pa. St. 147. The act of the passenger in such case is treated as the proximate, and the failure to stop the train as the remote, cause of the injury. *Jammison* v. *C. & O. Ry. Co.,* 92 Va. 327. Some courts say that by jumping from a moving train one ceases to be a passenger. *Com.* v. *B. & M. R. Co.,* 129 Mass. 500. This may be a question for the jury. *Ft. Worth & D. C. Ry. Co.* v. *Hawley* (Tex. Civ. App., 1921), 235 S. W. 659. In any view the instant case is at the very limit in holding that the carrier may be liable to one leaving the train in such a manner, and it is not strange that Miller, J., vigorously dissented from the decision. There was some evidence on which the jury might have had instructions as to the last clear chance, but the court does not pass upon that. Contributory negligence in such cases is not always a matter of law, but is to be tested by what the ordinarily prudent person would do under all the circumstances of the case. If reasonable men can differ, then it is for the jury. *Pa. R. Co.* v. *Kilgore,* 32 Pa. St. 292; *Louisville & N. R. Co.* v. *Crunk,* 119 Ind. 542. But cf. *Solomon* v. *Ry.,* 103 N. Y. 437.

CONSTITUTIONAL LAW—APPLICATION OF GUARANTY OF FREEDOM OF SPEECH TO ALIENS.—Information charging defendant, an alien, with violation of a statute of Connecticut penalizing seditious publications. Demurrer based